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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,260	08/15/2001	Benjamin Mandler	MANDLER=1	9743

1444 7590 02/23/2005

BROWDY AND NEIMARK, P.L.L.C.  
624 NINTH STREET, NW  
SUITE 300  
WASHINGTON, DC 20001-5303

EXAMINER
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RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/929,260

**Applicant(s)**

MANDLER ET AL.

**Examiner**

Sam Rimell

**Art Unit**

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 67-69, 76-81 and 88-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 67, 68, 76-80 and 88-90 is/are rejected.
- 7) ☒ Claim(s) 69, 81 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**SAM RIMELL**  
**PRIMARY EXAMINER**

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

Response to Election: In response to Examiner's requirement for election of 5/20/04, applicant has elected Group III, which currently includes claims 67-69, 76-81 and 88-90, elected with traverse. Applicant's argument in traverse that MPEP 803, second paragraph, requires search and examination of the entire application in situations where no serious burden of additional search is presented, even though the requirement for restriction is 100% correct. MPEP 803 second paragraph does not quite make such a statement. This citation from MPEP states:

*"If the search and examination of an entire application can be made without serious burden, the examiner must examine in on the merits, even though it includes claims to independent or distinct inventions."*

*"There must be a serious burden on the examiner if a restriction is required".*

In other words, the examiner does not make the restriction in the first place if there is no serious additional search burden. By making the restriction, the examiner is indicating the presence of serious additional search burden for independent or distinct inventions and demonstrates such burden by indicating the classification areas for the independent subject matter. Examiner has demonstrated this information in the requirement for restriction.

Applicant argues that the elected group III is linked to that of non-elected groups I and II, but provides no specific rationale for this conclusion. The amendments presented to the claims also do not create such linkage, as applicant argues that such amendments have not changed the scope of the claims (applicants' response of 7/20/04, page 29, last three lines). Examiner maintains that the invention is directed to three independent and distinct species of invention as set forth in the requirement for election of 5/20/04.

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The requirement for restriction is final.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 67-68, 76-80 and 88-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Mandler et al. (US Pre-Grant Publication US 2001/0049675).

Claim 67: In Mandler et al., page 8, claim 19, lines 4-7 there is disclosed a file system engine that receives a file request via a file system application programming interface wherein the request specifies file content of memorized files.

Page 8, claim 19, lines 8-12 disclose a parser linked to the linked to the file system engine that retrieves structural information of documents and further retrieves at least one of elements, attributes and values from documents.

Page 8, claim 19, lines 13-15 disclose an indexer linked to the parser for constructing an inverted index of the elements, attributes and values.

Page 8, claim 19, lines 16-21 states that responsive to a file request, the file system engine retrieves postings of the inverted index that satisfy requirements of the file request and returns a hierarchical tree of directories to the user.

FIG. 8 gives an example of the file system returning to the user a special virtual directory (the directory "Profile"). The content of this special virtual directory comprises at least one level

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within the hierarchy (“Ticker”) that is more deeply nested than the parent node (“Profile”) of the special virtual directory.

Claim 68: FIG. 8 illustrates the invocation of an operator (the directory path “F:/Profile/Ticker”) and indicates a context node (the node “Ticker”) and a parent node (the node “Profile”).

Claim 76: Claim 20 of Mandler et al. states that the inverted index comprises a structural section having postings of said structural information and a words section having postings of words of the documents.

Claim 77: Claim 22 of Mandler et al. calls for an analyzer for updating the inverted index and analyzing additions to the memorized files.

Claim 78: Claim 23 of Mandler et al. calls for the parser to retrieve structural information from the documents.

Claim 79: See remarks for claim 67. Note that the Mandler et al. reference and claim 19 refer specifically to the analysis of XML documents.

Claim 80: See remarks for claim 68.

Claim 88: See remarks for claim 76.

Claim 89: See remarks for claim 77.

Claim 90: See remarks for claim 78.

Claims 69 and 81 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.

A handwritten signature in black ink, appearing to read 'S. Rimell', with a stylized, cursive script.

Sam Rimell  
Primary Examiner  
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